

TOWN OF BELMONT
2013 ANNUAL TOWN MEETING
FINAL VERSION

Article 31: Zoning By-Laws – Religious and Municipal Building Preservation

6.12 Religious and Municipal Building Preservation

6.12.1 Purpose

The purpose of this Section is to promote the preservation of Religious and Municipal Buildings by permitting their adaptive reuse for residential or commercial use (or combination thereof) that may not otherwise be permitted under this Zoning By-Law.

6.12.2 Buildings Eligible Under this By-Law

A Religious or Municipal Building located in any zoning district is eligible for a Special Permit under this Section 6.12 if:

- a) The building, or at least one of the buildings located on the property, was always used for religious or municipal purposes; and
- b) The Religious or Municipal Building was originally constructed prior to 1950.

6.12.3 Uses Allowed by Special Permit

The Planning Board may grant a Special Permit to allow a Religious or Municipal Building, as identified under Section 6.12.2, to be used for other residential or commercial uses (or any combination thereof) than otherwise would be allowed in the underlying zoning district.

6.12.4 Incentives for Preservation

In order to permit the adaptive reuse of Religious or Municipal Buildings, the Planning Board may grant a Special Permit to:

- a) Reduce the on-site parking requirements;
- b) Modify Inclusionary Housing requirements of Section 6.10; and
- c) Increase, within the existing buildings, the number of stories and dwelling units allowed by the underlying zoning district.

6.12.5 Special Permit Procedure

- a) An Application for a Special Permit under this Section shall comply with the procedures and requirements set forth in Section 7.4 of this Zoning By-law.
- b) Applicants are encouraged to meet informally with the Planning Board and Historic District Commission to discuss the proposal prior to submittal of a formal Application.
- c) Upon receipt of an Application, the Planning Board shall forward a copy of the Application to the Historic District Commission for its review and recommendations concerning the proposed exterior treatments of the Religious or Municipal Buildings, including such things as windows, roofing and siding materials, and landscaping. Such recommendations shall include:
 - 1) the Commission's assessment as to whether the proposed exterior alterations would adversely affect the historic landscape or the architectural and historic integrity of the principal historic building itself; and
 - 2) specific conditions which the Commission believes should be imposed on the Special Permit in order to prevent any adverse effects and promote appropriate rehabilitation as provided for in the Secretary of the Interior's Standards for Rehabilitation (36 CFR Part 67).

The Historic District Commission shall hold a public hearing and make recommendations to the Planning Board within thirty-five (35) days of the Commission's receipt of the Application. Otherwise, the Application shall be deemed approved by the Historic District Commission.

- d) Upon receipt of an Application, the Planning Board shall forward a copy of the Application to the Belmont Housing Trust for its review and recommendations concerning Inclusionary Housing. The Belmont Housing Trust shall make recommendations to the Planning Board within thirty-five (35) days of the Commission's receipt of the Application. Otherwise, the Application shall be deemed approved by the Belmont Housing Trust.
- e) The Planning Board may grant a Special Permit for development of a Religious and Municipal Building if it finds that the conditions for approval for Special Permits set forth in Section 7.4.3 of this Zoning By-Law have been met.
- f) In granting a Special Permit under this Section 6.12, the Planning Board shall require that a perpetual preservation restriction on the Religious or Municipal Building be granted to the Town or other appropriate body or preservation organization under the provisions of Massachusetts General Laws, Chapter 184, Section 31. The form of such preservation restriction shall be subject to review and approval by Town Counsel.

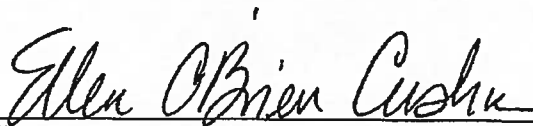
6.12.6 Nonconforming Buildings

Any exterior or interior alteration to a preexisting nonconforming Religious or Municipal Building made pursuant to a Special Permit issued under this Section shall be deemed not to constitute an "alteration to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent" requiring consideration and a Special Permit by the Board of Appeals under Section 1.5.3.

6.12.7 Rules and Regulations

The Planning Board shall be charged with administering this By-Law and may promulgate rules and regulations to implement its provisions.

TRUE COPY ATTEST:


Ellen O'Brien Cushman, Town Clerk

FINAL VERSION

ARTICLE 17 Amend Zoning Bylaw: Inclusionary Housing

6.10 Inclusionary Housing

6.10.1 Purpose

The purposes of this Section are to encourage the expansion and upgrade of the Town's affordable housing stock, in order to provide for a full range of housing choices for households of all incomes, ages and sizes; to prevent the displacement of low- to moderate-income Town residents; to increase the production of Affordable Units to meet existing and anticipated employment needs within the Town; to establish standards and guidelines in order to implement the foregoing; and to meet the requirements of MGL c. 40B and the Local Initiative Program.

6.10.2 Definitions

For purposes of this Section 6.10 of the Zoning By-Law, capitalized words shall mean as defined elsewhere in this By-Law or as defined below:

Affordable Housing Trust Fund - An account established and operated for the exclusive purpose of creating or preserving affordable housing in the Town. The Affordable Housing Trust Fund may be used for the following purposes within the Town: the purchase and improvement of land and Housing Units for the development of new and/or rehabilitated Housing Units for purchase or rental by Qualified Affordable Housing Purchasers or Tenants or to preserve existing affordable housing. Expenditures from the Affordable Housing Trust Fund shall be authorized by a majority vote of the Belmont Housing Trust.

Affordable Housing Unit - A Housing Unit that by Deed Restriction is and shall remain affordable to and occupied by a Qualified Affordable Housing Unit Purchaser or Tenant, and is eligible for inclusion in the Chapter 40B Subsidized Housing Inventory through the Local Initiative Program.

Belmont Resident – Since there is a “local preference” for some of the Affordable Housing Units, the people or households that may qualify for the local preference must be Belmont Residents, defined as follows:

- a. an individual or family maintaining a primary residence within the Town of Belmont;
or
- b. an individual who is employed at least 30 hours per week within the Town of Belmont; or
- c. a parent or guardian with children attending the Town of Belmont Public Schools.

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Comparable Unit - When used with respect to quality, character, and room size, means that there are sufficient features in common between the Affordable Housing Unit and the Market Rate Housing Unit so as to render the units similar in nature. Moreover, while the actual design or finishes provided in the Affordable Housing Units versus the Market Rate Housing Unit may differ in a non-material fashion and still constitute Comparable Units, the same amenities proposed for the Market Rate Housing Unit must be provided for the Affordable Housing Units, including without limitation full kitchen, full bath, and parking. Further, the actual room size for the Affordable Housing Unit may not differ in any significant manner to that of the Market Rate Housing Unit.

Notwithstanding the foregoing, when used with respect to external appearance, location and bedroom distribution, means that the external appearance of the Affordable Housing Unit and the Market Rate Housing Unit must be so similar in nature so as to render them indistinguishable while the location of the Affordable Housing Units and the bedroom distribution of such units must be no different from that of the Market Rate Housing Unit.

Deed Restriction - A provision, acceptable in form and substance to the Town of Belmont, in a deed to real property that runs with the land in perpetuity or for the longest period of time allowed by law, so as to be binding on and enforceable against any person claiming an interest in the property. Any Restriction created under this Section 6.10 shall survive any bankruptcy, insolvency, foreclosure, or other action, and shall not be subject to nullification for any reason. Additionally, the Restriction shall provide that in the event that any affordable rental unit is converted to a condominium unit, the condominium unit shall be restricted in perpetuity to ensure that it remains affordable to households in the same income range as prior to the condominium conversion.

Development - A single parcel or set of contiguous parcels of land held in common ownership for which one or more building permits will be sought within a 24 month period of time. The number of Housing Units to be counted from any project shall be calculated as the net increase in the number of Housing Units as compared to the number of Housing Units in existence on such land as of the date that the building permit application is filed with the Town of Belmont Office of Community Development.

Dwelling Unit - A building or portion of a building intended as living quarters for a single family, having a single set of kitchen facilities (a stove plus either or both refrigerator and sink) not shared with any other unit; or quarters for up to five persons in a dormitory, congregate dwelling, or similar group dwelling.

Housing Unit -

- a. A Dwelling Unit; or
- b. A habitable unit within a senior or assisted living facility.

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Market Rate Housing Unit – Housing Units available to the general public on the open market, without price restrictions or consumer income limitations.

Median Income – the mid-point of incomes of households in the Boston Standard Metropolitan Statistical Area, adjusted for household size, as determined annually by the United States Department of Housing and Urban Development and regardless of housing type or ownership.

Mixed-Use Residential Development - A Development consisting of a combination of residential and non-residential uses.

Qualified Affordable Housing Unit Purchaser or Tenant - A household with total annual income that does not exceed eighty percent (80%) of the Median Income.

Residential Development – A Development consisting exclusively of Housing Units.

6.10.3 Applicability

This Section 6.10 shall apply to any Development with a residential component that requires a Special Permit pursuant to Section 3.3 of the Zoning By-Laws, Schedule of Use Regulations, or pursuant to any overlay district.

6.10.4 Requirements

- 1) Residential Developments that result in six (6) or more new Housing Units shall provide Affordable Housing Units as outlined in the table below:

Size of Residential Development	Percent of Affordable Housing Units Required for Residential Developments
6 to 12 Housing Units	10%
13 to 40 Housing Units	12%
More than 40 Housing Units	15%

- 2) Mixed-Use Residential Developments that result in ten (10) or more new Housing Units shall provide ten percent (10%) of the Housing Units within the subject Development as Affordable Housing Units.
- 3) Where the calculation of Affordable Housing Units results in a fractional unit greater than one-half (.5), the fraction shall be rounded up to the next whole unit. Where the calculation results in a fractional unit less than or equal to one-half (.5), the fraction shall be rounded down to the next whole unit.
- 4) Rental Developments with units for households at 50% or less of Median Income may reduce the total number of required Affordable Housing Units by an amount

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equal to the number of units available to households at 50% or less of Median Income, or by 25% of the Affordable Housing Units required, whichever is less.

- 5) Except for cash payments permitted in Section 6.10.5 with respect to for-sale Developments, Affordable Housing Units shall be provided within the Development that requires the Affordable Housing Units.

6.10.5 Cash Payment Option for For-Sale Affordable Units

- 1) The applicant for a Residential Development of 6 to 9 for-sale new Housing Units may choose to make a cash payment to the Affordable Housing Trust Fund in lieu of providing any Affordable Housing Units. Such cash payment shall be equal to five percent (5%) of the value of each Market Rate Housing Unit in the Development.
- 2) The applicant for a Development of 10 or more for-sale new Housing Units may appeal to the Board of Appeals (ZBA) to make a cash payment to the Affordable Housing Trust Fund in lieu of providing any Affordable Housing Units required under this Section 6.10. Such cash payment shall be equal to five percent (5%) of the value of each Market Rate Housing Unit in the Residential Development resulting in the Affordable Housing Unit or three percent (3%) of the value of each Market Rate Housing Unit in the Mixed-Use Residential Development resulting in the Affordable Housing Unit. In making its decision, the ZBA shall seek a recommendation from the Belmont Housing Trust and consider such recommendation on this appeal.

6.10.6 Selection of Qualified Affordable Housing Unit Purchasers or Tenants

The selection of Qualified Affordable Housing Unit Purchasers or Tenants shall be pursuant to the Local Initiative Program and shall be administered as follows:

- 1) The selection process shall include a plan for marketing of the Affordable Housing Units created under this Section 6.10. The duration and design of this plan shall reasonably inform all those seeking affordable housing, both within and outside the Town, of the availability of such units.
- 2) Belmont Residents shall be given preference for seventy percent (70%) of the Affordable Housing Units created under this Section 6.10.
- 3) Owners of Developments may sell or lease Affordable Housing Units to the Town of Belmont, the Belmont Housing Trust, the Belmont Housing Authority, or to a private nonprofit entity serving Belmont for the purpose of providing affordable housing opportunities within the Town, in order that such entity carry out the steps needed to market the Affordable Housing Units and manage the choice of buyers or renters.

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6.10.7 Timing of Construction

- 1) Occupancy permits for any new Market-Rate Housing Units or nonresidential space shall be issued at an equal ratio of occupancy permits for required Affordable Housing Units.
- 2) Affordable Housing Units shall be dispersed throughout the building(s) and shall be comparable to Market-Rate Housing Units. Affordable Housing Units provided under terms of this Section 6.10 shall be provided on-site in the subject Development.

For an Affordable Housing Unit within a senior or assisted living facility, a comparable Affordable Housing Unit shall include the provision of mandatory living services.

- 3) All documents necessary to ensure compliance with this Section 6.10 and the Local Initiative Program provisions shall be subject to the review and approval of the Special Permit Granting Authority and Town Counsel. Such documents shall be a condition of the Special Permit and executed prior to the issuance of any Certificate of Occupancy.

6.10.8 Rental Development Annual Oversight and Monitoring

- 1) There shall be a monitoring agent for rental Developments with Affordable Housing Units, to be agreed upon by the owner of the Development and the Special Permit Granting Authority.
- 2) The owner shall be responsible for all payments charged by, or related to, the monitoring agent.
- 3) An annual independent compliance audit shall be submitted to the Town by the monitoring agent to insure compliance with this Section 6.10 and the Local Initiative Program provisions.

6.10.9 General Provisions

- 1) Enforcement of this Section 6.10, as it applies to all Developments, shall be the responsibility of the Town of Belmont Inspector of Buildings.
- 2) Provision of accessible Housing Units shall be as determined by Federal Regulations. Standards for accessible units shall comply with 24 C.F.R. Section 8.32.
- 3) This Section 6.10 shall not apply to the rehabilitation of any building or structure, all of or substantially all of which is destroyed or damaged by fire or other casualty or a natural disaster; provided, however, no rehabilitation nor repair shall increase the density, bulk, or size of any such building or structure which previously existed prior to the damage or destruction thereof except in conformance with this Section 6.10.

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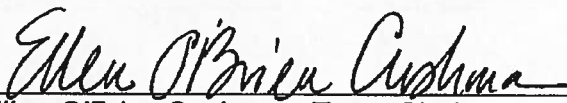
- 4) This Section 6.10 shall not apply to Developments under Massachusetts General Laws (MGL) Chapter 40B.

6.10.10 Severability, Conflict with Other By-Laws

- 1) If a court of competent jurisdiction holds any provision of this Section 6.10 invalid, the remainder of this Section shall not be affected thereby. The invalidity of any section or sections, or parts of any section or sections, of this Section shall not affect the validity of the remaining sections or parts of sections or the other By-Laws of the Town of Belmont.
- 2) Nothing contained in this Section 6.10 shall be construed to apply to the use of land or structures for religious or educational purposes if doing so would violate the applicable provisions of M.G.L. Chapter 40A, Section 3.
- 3) To the extent this Section 6.10 is silent on a particular issue or conflicts with the Local Initiative Program, the requirements of the Local Initiative Program shall govern.

Article 17 was approved unanimously as twice amended at the Belmont Special Town Meeting held May 29, 2013 at the Belmont High School Auditorium.

A TRUE COPY ATTEST:


Ellen O'Brien Cushman, Town Clerk
Belmont, MA